IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO.2501 OF 1998

Shri Macchindra Pandurang Chavan
r/o. 2100, K/6, Bidkar Building
Ruikar Colony, Kohapur ... Petitioner

V/s.

1. The State of Maharashtra
through the Secretary, Labour
Department, Mantralaya, Mumbai

2. The Additional Labour Commissioner
Pune

3. District Enquiry Officer
Departmental Enquiry Section
Kolhapur ... Respondents

Mr.K.J. Mishra with Ms.S.K. Khot for Petitioner
Mr.N.P. Deshpande, AGP, for Respondent No.1

CORAM: **V.G. PALSHIKAR &**
SMT.NISHITA MHATRE, JJ.

DATED: **FEBRUARY 28, 2005**

ORAL JUDGMENT (PER MHATRE, J.):

. This Petition challenges the order dated 6.3.1998 passed by the Maharashtra Administrative Tribunal in Original Application No.761 of 1996. The Tribunal had dismissed the Original Application.

2. The Petitioner was working as an Inspector, Minimum Wages (Agriculture) in Gadhinglaj Taluka. The Petitioner was found to have accepted a bribe. He was

suspended from work on 29.8.1988 and a criminal prosecution was launched against him under the provisions of Prevention of Corruption Act r/w Indian Penal Code. The Petitioner was acquitted by the Special Judge, Kolhapur as it was found that sanction had not been obtained under section 6 of the Prevention of Corruption Act. An appeal was preferred by the State Government which is pending before this Court. The Petitioner was reinstated on 1.4.1993. A departmental enquiry was proposed to be held against him and accordingly, a chargesheet was issued to him. The Petitioner, therefore, filed Original Application No.761 of 1996 challenging the issuance of a chargesheet as well as against the proposed enquiry. The main contention raised was that until the appeal was decided, the departmental enquiry should not be proceeded with. since the charge involved in both the proceedings was the same, viz., acceptance of a bribe. A further contention was raised that the enquiry was sought to be initiated after about 10 years of the occurrence of the alleged incident and, therefore, the enquiry was required to be quashed.

3. The Tribunal has in our opinion, correctly appreciated the facts and law and has dismissed the Original Application. The Tribunal has considered various judgments which were cited before it and has

concluded that initiation of a departmental enquiry need not be stayed pending a criminal prosecution against the delinquent employee.

4. It is trite law that a departmental enquiry and a criminal prosecution stand on two different footings. In a departmental enquiry, the enquiry officer is required to consider the case on the basis of preponderance of probabilities whereas in criminal prosecution, the guilt of the accused has to be proved to the hilt. One is not dependant on the other. Even though a delinquent employee may be acquitted in a criminal prosecution, it would not necessarily mean that a departmental enquiry can not to be held against him. Once disciplinary proceedings are initiated and the enquiry officer submits his report, it is left to the competent authority to take a decision on whether to retain a delinquent employee in service although he may have been acquitted in criminal prosecution, unless the service rules which are applicable provide otherwise.

5. We see no reason to interfere with the findings of the Maharashtra Administrative Tribunal. The Petition is, therefore, dismissed. Rule discharged. No order as to costs.